POPULAR GOVERNMENT

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In This Issue:

Six Articles on Education

Waters Rights Law

Wilmington . . . All America City

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Contents

Federal-State Cooperation for Education—by Dr. Wayne O. Reed 1

The Public School and City and County Management—by Donald Hayman 4

Progress in Education—by Dr. Guy B. Phillips 6

The Board of Trustees of the University of North Carolina: A Comparison with Other Governing Boards—by Robert E. Phay 9

Education and the Law—by Allan W. Markham 16

Federal Court Invalidates "Pearsall Plan"—by Allan W. Markham 17

Book Reviews 17

Water Rights Law as a Means for Resolving Conflicts in Water Use—by Milton S. Heath, Jr. 18

Wilmington . . . All America City 1965 20

Planning and Zoning—by Robert E. Stipe 21

Institute Schools, Meetings, Conferences 22

A Fable on the Use of Sick Leave—by Donald Hayman 23

Institute Schools, Meetings, Conferences 24

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Historic Orton Plantation on the Cape Fear River below Wilmington is one of the beauty spots of the North Carolina Azalea Festival. This month's cover picture pays tribute to Wilmington's selection as a 1965 All America City. For the complete story, see page 20.

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Federal-State Cooperation for Education

by Dr. Wayne O. Reed

[*Editor's Note: The author is Associate Commissioner for Federal-State Relations, Office of Education, U. S. Department of Health, Education, and Welfare, Washington, D. C. His article is adapted from remarks made at an in-service conference for members of local boards of education held at the Institute of Government, April 1.*]

"Only a junior partner." This is what former Commissioner of Education Keppel called the Federal Government; and in this phrase he caught the whole tradition of the control and support of public education in the United States.

He suggested one inescapable fact: that education in this nation succeeds or fails on the basis of what happens at the hands of the other partner: the State and that extension of itself by which it discharges most of its responsibilities for education on the local scene—the local board of education.

During the first hundred years of education in these United States, the Federal Government was not generally considered a partner at all. The Federal Constitution did not even mention education. Even so, the threads of Federal aid to education have from the beginning been woven into our pattern. Before we had our first President, the Federal Government, in the Ordinance of 1787, set aside public lands for education in the States. And, as it has turned out, the Federal Constitution has been a framework within which the Federal Government could legally turn its hand to help the States whenever the need for help became overwhelmingly obvious.

Purpose of Federal Aid

For a hundred years now, this helping hand—which is what the junior partnership, in the end, amounts to—has been extending itself to the States. The help has been given to meet various needs; yet, looking back, we are struck by the consistency of the Federal role. Federal aid to education has always been given for one of four large purposes.

The main purpose has been to bolster the nation's supply of trained men and women. The first Morrill Act, in 1862, for example, provided opportunities to develop the agricultural and technical know-how we so urgently needed at that time. And the need for well-trained manpower was behind the vocational education acts we have on the books—The Smith-Lever Act, the Smith-Hughes, the George-Barden, and all the rest.

The need for scientists and for people to represent us ably in foreign countries—this was behind some parts of the National Defense Education Act, just as other parts were inspired by the nation's eagerness to identify the talented and develop their talents —an eagerness that translated itself into a demand for programs for training teachers and counselors.

The second purpose began expressing itself five years after the Morrill Act, when Congress established the Office of Education. Then began a form of Federal aid which has flowed forth without interruption ever since —Federal aid in the form of educational information. The Office of Education not only has served as a statistical clearing house for the Nation but has communicated information out of the broad perspective it has gained from having a national view.

These two purposes—manpower and educational information for the Nation as a whole—were the dominating one until the 1950's.

Then came the decade that saw the first overt signs of the social and technological revolution in which we now live. This was the decade that prompted Federal aid for a new purpose—for research and experimentation in education. It brought the Cooperative Educational Research Program, born out of a national conviction that a new era was beginning—an era that would soon make some of the old ways and some of the old ideas obsolete. This program began about ten years ago with less than a million dollars; today the research programs in the Office of Education have authorizations totaling almost a hundred *times* one million. Research is expensive: Educational agencies and institutions do not have the money on the scale required. The Federal Government, therefore, extends its helping hand.

The fourth purpose is one that no State or group of States could fulfill, no matter what their resources. This is the purpose that gives education its international dimension—the exchange of students and teachers, the learning from others as we help them to learn from us. This purpose, though it enriches us here at home, belongs to the realm of international relations and therefore must be the responsibility of the Federal Government.

I have drawn you a rough profile of the assistance you have had from your Federal Government. Behind the shape of it is another; for each act is essentially an emergency measure. Each act is a crash program to deal with an immediate crisis. In other words, the role of the Federal Government has consistently been to give support in selected areas.

State and Local Role

In contrast, the work of the State and the local community has been to carry out the over-all, day-to-day, in-season-and-out, never-faltering business of seeing that balance is maintained and that school keeps. From the standpoint of money alone, the role of the State and the school district is patently paramount. The Federal Government, on the basis of what it contributes toward meeting the costs of running the elementary and secondary school—today, about 6.5 percent of the total—could hardly claim more than a limited role, even though the usefulness of its contributions has been considerable.

The responsibility of the State and the local community is one which all of you here today share, whether you are members of a local school board or officials of a State government. You share it by a long series of precedents, legal as well as historical. Over the years the courts have repeatedly affirmed the idea that since school boards are created by the State and the State has delegated to such boards the power necessary for the operation of the schools, local boards are

extensions of the State government. In the end, the final responsibility for the quality of public education in each of the States comes home now, as it always has come home, to the State and local boards *together*—and to the people who select them.

If the new act for elementary and secondary education implies anything for this close partnership of yours, it implies this: that in the future this partnership must be even closer and stronger than it has been in the past. This is part of what I read between the lines in Section 604 of this act, which prohibits your junior partner, the Federal Government, from coming between you. It says this: "Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system." By these words, the Congress of the United States has again expressed the Nation's will: that the heart of education be kept in your hands.

The State—I use the term now in a sense that includes the local school board—is the senior partner for at least three reasons: first, because the Tenth Amendment implies that the power of establishing and maintaining an educational system is reserved to the States; second, because the people's will, all through our history, has been to preserve a decentralized system of education; and third, because the State, when it delegates responsibility to local school boards, does not in truth relinquish any of its ultimate responsibility either for quality or for equity. In fact, the educational power of any State is greater than that of the Federal Government, subject of course to the limitations placed upon it by the Supreme Court's interpretation of the Federal Constitution—and by the bottom of its own pocketbook.

The Elementary and Secondary Education Act of 1965

The Congress of the United States, responsive as it is to the people's will and committed as it is to the safeguarding of vitality of State action, places a premium on strength at the State level. It did so most recently in the Elementary and Secondary Education Act of 1965, in which, for the first time in history, it expressly stated its wish, as a matter of policy, that State departments of education be strong.

True, this wish has been evident in other acts, but only by implication. The National Defense Education Act, for example, gives the State agencies funds to use in expanding their supervisory staffs for certain academic subjects, improving their services in counseling and guidance; and doing a better job of collecting and reporting statistics. Now, however—I want to reemphasize this point — now for the first time the Congress clearly says to State departments of education, "Be strong! Gird yourselves for change and challenge. And here is money to help you do it."

State governments and their agents do indeed need strength for the decisions they must make and the work they must do in the crucial decade now beginning. What these decisions will be, and what priority they will have—this will be up to you—up to the States and the local communities. Whatever those decisions are, however, I am certain they will be in some way a response to the trends of our times. I am certain that you will do more than before to salvage and foster human talent in *every* level of society; that you will look more to the findings of research for guidance in your decisions; that you will work harder to break down barriers of all kinds in our society.

We can read the trends of the times all about us these days. We can read them in the Acts of Congress, for one thing; and I suggest that the Elementary and Secondary Education Act of 1965 is full of clues to our future in education. Let us go through the Act title by title, reading it not so much to gets its details as to see its broad purposes.

Title I

Title I offers the States a weapon against poverty. Title I says something like this: "The public school is the most logical institution this Nation knows of to show the way up and out for children at the bottom of the socio-economic scale. And it is time, now, for the schools to make a special effort to do just that, to do whatever it takes."

To the schools, however, this is not a new assignment. No, this one they have always carried on their shoulders, for it is the logical conclusion of the American ideal: equality of opportunity for every man.

Over the years the American people have struggled with this massive assignment, and we can look back on much of our record with pride. We can look back, for example, at the remarkable performance our public school system gave some decades ago —a performance which many have called its finest hour.

Your own Harry Golden, who is one of the products of that accomplishment, speaks of it with admiration. "In the early 1900's," he says, "I was a pupil in Public School 20 in New York City. I didn't know it at the time, but I was part and parcel of the most successful experiment in the history of human relations—an experiment in which a million immigrants were made into citizens in a single generation."

"This is what the American public school system did," Mr. Golden says. "They made the stranger feel at home."

You see, it's as I said: the assignment handed us in Title I is not new. We still have it to do — to make millions of children feel at home in America. These children were born here, but through poverty and circumstance they are as much strangers to the American way of life as if they had been born on the other side of the world. The task of making them feel at home is almost staggering, but we can do it. We can do it if we pool our imagination, our effort, our will.

Title II

Title II makes available $100 million this year to buy library books for the schools. And not library books only, but textbooks, magazines, tapes, phonograph records—any kind of instructional materials that will awaken the minds and spirits of children to the excitement of learning. Like Title I, it provides that the advantages bought with Federal money should be made available to all children, whether they are enrolled in public or nonpublic schools.

Title III

Title III tells us to think of our schools as the center of our entire cultural enterprise. It provides $75 million this year for an innovation that promises to be one of the most exciting developments in American education—an innovation called Supplementary Centers and Services. Through these centers and services the schools are being encouraged to work closely with other community agencies—to draw on all of the community's resources: the resources of industry and science, of labor, of the arts, and of the home. In short, the schools are being asked to find imaginative ways of opening the intellectual resources of the entire community to all of its children.

Under this title, each local public school, working in cooperation with the rest of the community, determines the kind of center it will have and the services it will give. As a result, we ought to have grat variety across the country and the schools of the Nation should reap a rich harvest of stimulating ideas.

Title IV

Title IV adds something new to the Office of Education's cooperative research program. It adds two new things that are particularly appealing to persons who, like yourselves, welcome any narrowing of the gap between the research laboratory and the classroom.

First, it authorizes as much as $100 million over the next five years for the construction of regional or national research laboratories. We hope eventually to have a network of about 20 of these laboratories covering the country. Each one will bring together university scholars, public school people, and people in State departments of education. Others may join in the work too—even private business and industry. Each laboratory will not only do research and experimentation but will test its findings in the schools. In other words, the researchers will work hand-in-glove with teachers and school officials, both State and local. Each laboratory will also be a training ground for researchers and for the teachers who will be applying the results in the schools. Nine of these laboratories are now getting started; Among the proposals for others now under consideration is one that would include North Carolina.

The second addition in Title IV is a provision for grants to colleges and universities—and to other public or nonprofit agencies, institutions, and organizations—to enable them to *train* people for doing educational research. This year the Office of Education has eight million dollars to spend for this purpose. Some of this money, conceivably, will go to local schools, perhaps to support research traineeships and internships, perhaps to import special research talent.

Title V

Now add Title V, of which I have already spoken, and you have the whole package. It's a substantial package—all for education. It is money principally. But it is also a challenge.

The Challenge

What will you do with it? The job of doing something with this Act is in your hands and in the hands of your people, out in the towns and cities and communities where they and their children live.

The American people, in making their will known in this Act, have, in effect, asked every leader at both the State and the local level to accept responsibility for education. They have asked for a cooperation among people and among agencies, and even among States, that is unprecedented in our history.

What will the States do? I could easily turn to the specifics of the Act and talk to you about the responsibilities of the States as they are spelled out in the Act—such as the fact that under Title I the States will approve the applications from local schools and work out equitable bases for distributing the money. Or the fact that under Title II the States will set up the criteria for library books. And the fact that under Title III the States will review all applications from local agencies for Supplementary Centers and Services and make recommendations to the Federal Government.

But to do this would be too easy. You have come here, I know, to consider larger responsibilities—responsibilities that are not spelled out in legal langauge. These are the challenges that force us to think, to analyze, to plan, and to be aggressive in our action.

The Decisions

To put it another way: The road ahead of us is a road of decisions. Somewhere along the line someone has to decide—and this should *not* be the Federal Government—what we will teach in our schools, who will teach it, where they will teach, when they will teach, and how they will teach. And someone has to work out the framework—financial and otherwise—within which these decisions will be made.

These are decisions which only State legislatures have the first authority to make; but they have wisely delegated this authority, at least in part, to local school districts. I say *in part.* Local school districts *do* select their own teachers, do assign them to classrooms, do provide the buildings, do specify the hours and days when school will "keep," and do provide the facilities, equipment, and materials, which to some extent, determine the method of teaching; and for all this they do make budgets and somehow manage to stay within them. But behind this great catalog of decisions passed on to local communities the authority of the State still stands.

The hand of the State still shows, for the local district can make decisions only within the framework of State policy. Almost every State sets the terms under which it will certify a teacher. In broad terms, almost every State sets guidelines for the program of studies. Every State requires school buildings to be safe and sanitary. It sets certain limits on teacher load, teacher-pupil ratios, class size, and length of school year.

In short, the State, however much it may delegate the management of the schools to local boards, cannot escape its ultimate responsibility. Although I have only begun to enumerate the responsibilities of the States in education, I have already suggested the complexity of the decisions that State governments and their agents must make in the crucial decade now beginning. Time is precious and we must get to work quickly to analyze the situation and find what comes first and what should follow. The order will differ from State to State but I would like to suggest that in

almost all States at least three ideas will take precedence.

Urban Population

First, the States will take a new measure of what it means to be responsible to a population largely urban. Not only will they consider what this means in terms of manpower needs and, therefore, in terms of educational institutions and curriculum, but they will consider what it means for the distribution of funds. They will ask, for example, whether their distribution of State aid recognizes the needs and requirements of its urban communities?

Local Management

Second, the States will weigh once more the principle to which they have been so long devoted—the principle that the operating management of the schools should be delegated to local school districts. And the States will, I trust, find new virtue in this principle now that bigness and consolidation rather than smallness and dispersion are more and more the rule in our great decentralized system.

For education is an intensely personal matter: the intimate essence of it denies the possibility of mass solutions to educational problems. It takes place wherever the learner is—in his home, in his school, wherever he goes. It takes place in that face-to-face confrontation between himself and his teacher—a relationship we can best protect by keeping the operation of the schools close to the people.

Communication

Third, the States will become the master links in the communication process—links not only between government and government but also between school and school, and between the public and all its schools.

For the local school, the importance of having a good line of communication to a good source of information cannot be overestimated. Indeed, the local participants in the decision-making process will be equal to their tasks only if they are in cooperation and coordination with *other* local decision-makers and *other* levels of decision making. If the State educational agency, by being a well-nigh infallible and completely generous communicator, can keep a multitude of local school decisional systems well informed, it will proliferate the choices open to local schools for solving their problems. If there is a goal more worth striving for, I don't know what it is.

For the State itself, of course, having information about every aspect of the schools and their work is the key to its strength. If it does not have facts, it is almost powerless.

And for the Federal Government, reliable information from the States is indespensable. Well supplied with the facts they need, the States and the

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A Seminar for School Superintendents, City and County Managers

The Public Schools and City and County Management

by Donald Hayman

[*Editor's Note: The author is an Assistant Director at the Institute whose fields of concentration include personnel administration and municipal and county management.*]

"What do school superintendents and city managers have in common?" asked several of the 73 participants as they gathered in Chapel Hill on March 10 for the seminar on "The Public Schools and City and County Management."

Early sessions witnessed a few charges and counter charges and the occasional use of "you" and "us." However, after two days of lectures and panel discussions the 23 superintendents, 20 city managers, and nine county managers, agreed that they shared common problems and similar administrative responsibilities. Many expressed the hope that the seminar might motivate superintendents and managers to recognize the need for (1) close and continuous communications, (2) joint planning on site location, (3) cooperation in the use of public facilities, and (4) greater coordination in planning for financing capital improvements and increased support for existing programs.

The 21 speakers and panelists covered a wide range of topics. In the opening session, Edwin Gill, State Treasurer and director of the Local Government Commission, expressed the belief that "the habit of good government" is an accurate appraisal of the public schools and city and county government as well as state government in North Carolina. In closing Gill stated that imaginative thinking, cooperative planning, and the best business practices would be necessary if the increasing educational and local governmental service needs of the citizens were to be met.

Similarity of Roles

It is not surprising that superintendents and managers have thought of themselves as different and as belonging to two separate worlds. Only in recent years with the advantage of 50 years for reflection and hind-sight has Childs, the inventor of the council-manager plan, made numerous comparisons between the roles of the professional superintendent and manager and the lay school board and city council.

In order to determine the similarity of the roles of the superintendent and manager, speakers described (1) the legal organization of schools and local governments, (2) the duties and responsibilities of the superintendent and manager, and (3) the common elements in the preparation programs of the two professional groups.

The large number of duties, their variety, and the extent of the responsibilities of superintendents and managers were mutually impressive if not frightening. The similarity of the role of the professional administrative officer responsible to a lay policy-making board was discussed as was

Federal Government, working together, will be able to put their fingers on the gravest weaknesses in our educational system, and devise ways of overcoming them. They will be able to detect incipient weaknesses and to correct them before they grow into crises.

Yesterday, Today, Tomorrow

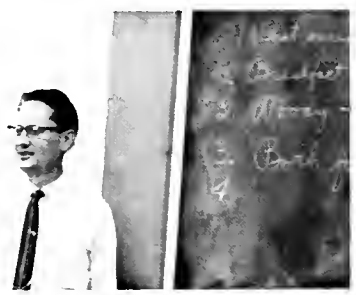
As we look into the future, we see it from the vantage point of the past, and we know we have a firm base on which to build. Behind us are a hundred years of experience in American education. Our forefathers did well indeed when they established a public school system with the idea that it be vitally enmeshed in the life of the community. Having its management in the hands of the people, and having its chief authorities and control decentralized in the governments of half a hundred States, this system has come far toward fulfilling all the hopes it has carried. This great free public school system, hospitable to all special interests and beholden to none, is the supporter of our prosperity, guardian of our liberties, and assurance of our well-being.

From these hundred years of rich experience we are learning how local, State, and Federal agencies can cooperate for the advancement of education. Now, more than ever before, our public school system, buttressed with appropriate Federal leadership and support, has an opportunity to prove that the great design behind it is equal to every change. A decentralized system, supported by local, State, and Federal agencies working in partnership—this is not merely part of our long tradition; it is also the best framework we can devise in which people of vision are free to experiment and to be creative. Without a framework so flexible, the educational leaders in our States and communities would not be able to meet the demands of society today.

For society today makes complicated demands. Today it asks these leaders both to preserve the good things of the past and to create good things for the future.

Society says to you: Keep the American public school open to all. Preserve it as a moderator of conflicting issues. Do not let it be any less a training ground for leaders and citizens in a free and open society. Make it to continue as a guarantee that no central agency will control the minds of our children, and as a safeguard that if mistakes are made at the State and local level, they have a chance of being corrected before they become national mistakes.

But cope also with change, society says. Respond to the needs of our times. This is a double assignment, a pressing one. Only you can carry it out. □



Hayman

the similarity of the subject-matter of academic training. Managers were judged to appear less professional and of slightly lower status to the public because of the absence of set academic standards and certification procedure.

Common Problems

Empathy increased between superintendents and managers as they were reminded of common problems. Their lives are complicated by the fact that their jurisdictions are limited to a fixed geographic area—an area which may not conform to where people live and which is sometimes difficult if not impossible to change. Both groups share a high tension level, an increasing work load, increasing costs, and increasing difficulty in securing funds to pay salaries, buy supplies, and meet capital improvement needs. Both groups are challenged to learn the intricacies of federal programs for the culturally deprived and federal requirements for financing local programs.

The school and county budgeting cycles were reviewed. Managers were reminded that education is a basic constitutional function of government, and superintendents were reminded that boards of commissioners are responsible to the public for levying the taxes to finance all county programs. The importance of careful research and planning in budgeting preparation was stressed as was the necessity of interpreting school needs to citizens and commissioners.

The desirability of school districts having their own taxing power was suggested by one superintendent. Others stated this violated good organizational theory and practice and countered with the question, "Why don't former school board members and PTA presidents seek election as county commissioners?"

Destructive competition between schools and cities and counties for the increasing but still limited tax dollars was considered. Other sources of financing schools and local government were discussed. The importance of coordination and understanding, of compromise and confidence, and of research and timing were stressed. If all local officials share a feeling of responsibility in setting goals for the community, a firm basis for cooperative planning of the use of available funds may be established.

The work of the Winston-Salem-Forsyth County Planning Board in providing the schools with population projections and suggested site locations was described. Numerous examples from other jurisdictions of the lack of coordination of thoroughfare planning and school site location were cited. The resulting problems of inadequate school grounds and buildings, and the added financial burdens of providing streets and access roads, water, sewage, garbage collection, and police and fire protection were reviewed.

The "lighted school house" program in Wisconsin which has resultd in the extensive use of school facilities and school personnel for municipal recreational and adult and technical educational purposes was described as was the cooperative school-recreation program in Winston-Salem. This Winston-Salem program involves the use of designated school athletic fields, tracks, courts, and school classrooms for recreational purposes. In return the city maintains these facilities. Both municipal and school officials believed that a higher level of recreational service has been provided at a saving to taxpayers. The problems of limited or inadequate space, complaints of disturbance to buildings, noise, heating, and maintenance problems were described. Joint purchase of school and recreation property with facilities planned and engineered for joint use was suggested.

Other problems of mutual concern noted were parking, police protection and traffic control at school crossings and at athletic events, juvenile delinquency, and financing and use of libraries.

Methods of Increasing Cooperation

On the final day of the seminar a panel composed of a city planner, city and county superintendents, and city and county managers discussed methods of increasing school-local government cooperation.

The city planner stressed the need for coordination between school and municipal facilities in the transfer and control of public lands. Sites for schools and other public buildings were said to be much more important in terms of travel time, developmental costs, convenience, safety, traffic flow, and the availability of utilities than the average lay school board member realizes. The selection of a "cheaper" site was said to have resulted in one municipality paying twice the difference between the cost of the "cheaper" and the more "expensive" site in added street, water, and sewage developmental costs and police and fire protection. The advantage of the use of building permits in controlling construction was noted.

School superintendents stressed the importance of cooperation, mutual respect, free and open communications, and good personal relations between managers and the superintendent. One superintendent saw the need for an informal intergovernmental council in his community to facilitate communication and leadership. Another superintendent stated that his community was too highly organized and that his problem was too many meetings.

The city managers echoed the need for more informal communications between the superintendent and the manager and between their staff assistants. The importance of early exchange of information among officials involved in planning for school sites, libraries, recreational and parks areas was reiterated. Managers were asked to keep school officials informed of new subdivisions and new industries which will affect the rate and direction of the growth of the city.

Money or the lack of it appeared to be a matter of principal concern. Every good administrator attempts to work out a financial plan for his agency whether it is a city, a county or a school district. Frequently the city manager does not know the problems or financial plans of the school superintendent or county manager and vice versa although many of the same citizens will be affected by all three financial plans. The feasibility of a jointly worked out time table in planning for capital improvement needs requiring bond elections and tax increases was discussed. Although changes would have to be made in such a plan periodically, each could keep his counterparts informed of changes as they were anticipated. Other suggestions were: joint meetings of boards; joint city, county and school annual reports; joint use of legal staff; ex officio membership of the superintendent on advisory recreation and library commissions; and joint support of central data processing.

The concluding address was by Dr. Guy Phillips, Dean Emeritus, of the School of Education of the University of North Carolina. Dr. Phillips' address appears as a separate article in this issue of *Popular Government*.

The seminar was sponsored by the North Carolina City and County Managers Association, the Division of Superintendents of the North Carolina Education Association, and the Institute of Government. The theme of the seminar was suggested by three earlier seminars jointly sponsored by the American Association of School Administrators and the International City Managers' Association. The earlier seminars were conducted in 1963 and 1964 at Syracuse, New York; Lawrence, Kansas; and Lake Arrowhead, California.

The earlier seminars were regional, did not include county managers, and did not include city managers and school superintendents from the same cities. The Chapel Hill seminar was restricted to public officials from North Carolina, did include county managers, and a special attempt was made to secure superintendents and managers from the same cities and counties. It is hoped that improved communications and greater understanding between superintendents and managers were facilitated by their traveling together to and from Chapel Hill for the seminar as well as by the seminar sessions. □

Progress in Education

by Dr. Guy B. Phillips

[Editor's note: The following article is adapted from an address by the author before the seminar on "The Public Schools and City and County Management" at Chapel Hill on March 12, 1966. Dr. Phillips is Professor of Education, Emeritus, at the University of North Carolina at Chapel Hill].

A combination of wars and conflicts and social relationships set the pattern in which a state like North Carolina must play its part. American democracy which has followed a rather continuous process of placing responsibility upon the individual has resulted in slow progress in many respects toward final goals. The political life of the nation made up of states as subdivisions has created the background in which local units and individuals must operate. This gathering today is a very simple effort on the parts of groups to understand, communicate, and cooperate with each other.

Education is coming to be recognized as the basic foundation on which communities, states, and nations must be operated. The significant thinking on the part of local and world figures indicates the inevitable acceptance of an adequate education for every human being. American leaders are committing themselves in uncertain terms to more adequate school support.

The Level of State Government

The structural development of local and state government has resulted in extremely varied patterns. Regional practices have determined very largely the emphasis which has been given to local government responsibility. There is almost a universal resistance to change in local governmental patterns. Political leaders at all levels tend to retain the positions and duties given them under entirely different conditions and at different times. Fear of domination by the cen-

tral power of local control has played an important role. It took a long time to bring about the acceptance of any support and control at the high level. It appears, however, that central control and support has had the most significant influence on progress. Federal support for most phases of government was accepted long before there was any significant acceptance of federal support for education. People who do not involve themselves in local support and who refuse to perform the proper duties and responsibilities tend to lose that responsibility to other higher agencies. There seems to be evidence to the effect that people are less concerned about local support today than they were ten to 15 years ago. We tend to lose what we do not exercise in muscle or social practice. Recent legislation and trends in philosophy and practice in federal support for education indicate a great opportunity and at the same time, a great threat. Considerable study is being given to this federal-state relationship in education. There has been too much failure on the part of leadership to act positively. During this same period the nationwide development of urban communities has complicated the situation.

The North Carolina Mural

On the walls of the Institute of Government's auditorium there is a wonderful story told in a mural. We should now create another mural which will focus attention on significant developments in the state.

One of these is the industrial and economic challenge in North Carolina. Great emphasis during the past 15 years has been placed upon creating a new industrial society. Significant industrial expansion has occurred.

The second emphasis is in the reconstruction of the political structure of the state. It should be noted that neglect on the part of political leaders for the past 50 years has created a situation which has made it necessary for the federal power to challenge the state to equalize representative government. There is no question but that this delay in reconstruction has had a negative effect toward progress in North Carolina. The social fabric of rural and urban life has been maintained in spite of very apparent signs of change. The decline in rural population and the rapid increase in urban population should have been recognized and capitalized on long ago. It might have minimized the dual educational programs which have handicapped many children.

The process of educational development under an early pattern of a highly controlled local representation slowed up educational progress. The revolution of 1931, when the schools became the total responsibility of the state, had an effect but there was a negative reaction which further retarded local effort. The educational story can be traced along the line of highly controlled local administration with very little supplement to the minimum state support until the adoption of state administration.

As local financial responsibility has rested on the county commissioners, they have determined practice and policy. State government, through the General Assembly and a State Board of Education, has made considerable progress in what is called "a minimum program of support" during this same period. Public school administrators, including boards of education, the superintendent, and the principals with district committees have all played a part in the problem. Emphasis has been strong on the side of low local tax support for education. North Carolina ranks at the bottom in the southern region in the amount of local effort for education. It is doubtful that North Carolina will maintain an adequate per capita cost from state funds to meet its needs.

Profile of the Future

Reference to the hard road extending backward for about 50 years is a good start for a look at the future. A hard road lies ahead for all of us in education and local government. The state ranked low on various ratings and has continued to stay at the bottom through the years. The present prophesy is that by 1976 North Carolina will still be around the 42nd position. Much progress has been made, but relatively we stay behind.

In the recent decade we have been talking about moving North Carolina and the South into the mainstream of the nation's life. Getting out into the mainstream has been a hard task. Some of the people who have tried to guide us out there into that stream have been rather severely criticized. Most of us are still paddling our little flatboats, our skiffs, and cheap rafts out in the safe and quiet waters and eddies near the banks. We are making a lot of noise but not much progress out in the mid-currents.

North Carolina cannot afford the luxury of 100 county governments with all of the separate offices now connected with the county office. It is equally true that school districts must have a minimum size with a large enough tax base to justify the schools. They must be large enough to insure enough pupils at all ages, to provide adequate administration, teachers, and auxiliary services. Several years ago a number of studies indicated that any school district with fewer than 5,000 pupils was economically and educationally unsound. Without question, that minimum, under new communications and transportation, must be increased. I estimate today that at an early date this state should be operating in not more than 50 to 75 administrative units and that this same number should apply to the number of counties.

North Carolina's is still an elementary economy based on agriculture and relatively few manufacturing activities. An advanced economy which raises the level of income and wealth must be heavy in the service areas of employment. The Research Triangle is making some progress in bringing new high level service employment. Some sections of the state are fortunate to secure that kind of income.

To maintain progress toward the balanced economy we need, we must provide higher education preparation and more selected vocational training opportunities. We are striving, therefore, to develop diversified industry patterns and a more highly educated citizenship. There is a direct correlation between income and these measures of employment. Income also is closely related to areas of recreation and culture. We are rich in land, in climate, in coastline, and in mountain scenery. Shortsighted leadership has retarded investment in the most remunerative resource of our state—the education of the people of the state.

Cities are essential to the future of North Carolina. Farm population is declining at the rate of 50,000 per year. People are now moving into cities with increasing rapidity. North Carolina is reported to be about 40 years behind other parts of the nation in urban strength. This means a real opportunity for North Carolina to build the kind of cities that should be profitable. Creative dreaming and plan-

ning is essential and both city managers and country managers will have a key spot in these plans. At the same time, superintendents must assume leadership and be allowed to participate.

A prominent leader several years ago stated that North Carolina was fortunately one of the most balanced states in the country. We had 12 or 15 large towns, called cities, scattered across the state, and half of our population was in agriculture and half in industry. We differ from states in which one dominating city controls much of the policy of the state. Since that evaluation, the Piedmont section of the state has continued to grow more rapidly than other areas. During the past decade about 40 counties lost population. At least 40 per cent of our citizens are now in the cities. The state, county, and city tax structures are involved.

In many of the large urban areas of the nation, the central core of the city is declining while the suburbs spread. The old city is now under one school system, and wealthy suburban areas operate under a different system. The new educational pattern to meet this situation must be different in the future.

Some school people and some laymen believe that school practices should be very slow in changing. Schools have been tradition bound, cautious, and unwilling to be creative. Dr. Paul Mort several years ago pointed out, that, "change lags seriously. The majority of new practices and methods required almost a half century to complete changes in the schools." We knew more of what we should do that we were willing to attempt. This is an explanation of the serious difficulties occurring in the last few years in the fields of mathematics and science requiring an entirely new approach. It is true that schools are better and there is a growing tendency for the schools to step up the pace of change.

The new technology basic to this new profile calls for unskilled people to become semi-skilled and semi-skilled people must move up to the status of an expert. All of this calls for continued training and re-training for many people. Young people today will change their occupations many times during the next 25 to 30 years. We may be training more now in some jobs than we need. Our problem is to adjust to their needs.

Community colleges and the technical institutes stand in a key position of responsibility. During the last year these institutions throughout the state enrolled 100,000 different people for some kind of further education or training. If we can determine the right kind of training and expand it adequately, we may be able to build a brighter future.

Tasks of Unified Forces

Learning to communicate with each other and between groups is urgent. School board members must understand the task of the school and the relationship to other government agencies. Political officers and employed personnel responsible for tax levy and budget approval must be thoroughly acquainted with the problem of education and other service agencies and permit adequate expansion. The superintendent of schools, as an employed professional officer, must be able to interpret facts and attitudes with vision and courage. The informed public citizen must be given the facts and be willing to face them without distortion. Members of city councils and county boards of commissioners who control the tax strings must be sympathetic, understanding, and creative in their approach to the future. Surveys, educational audits, and wise conferences should result in cooperative progress. There should be no tendency to make puppets of school board members and school administrators. Curriculum activity, methods of teaching, textbooks, and professional methods lie in the field of the professional. Adequate communication between all officials is essential. A wiser and more comprehensive program of education for managers, school administrators, and elected public officials must be provided in the institutions of learning with adequate laboratory and practical experience.

The Speed of Progress

A recent editorial pointed out very vividly the problem of speed in material, social, and spiritual change. The illustration of a corduroy road was used. If the driver slows up so as not to have a bump as he goes over from one log to another, there will be a hard bump. It is said that if you drive fast enough with a wagon or car over this kind of road, the speed tends to smooth out the ride. There are a few long stretches which are smooth, but in general, educational progress goes over many rough places. School administrators have a tendency to slow down to keep from having a jolt, but to maintain such a secure fast pace that it will be possible to smooth out the road. Education is in a period of speed and oftentimes we should speed up rather than slow down. County and elected officials tend to slow down to avoid the bump. They are slowing education to the point that the vehicle is breaking to pieces. The modern tempo of speed which has taken us from the slow ox-cart to the unlimited travel of the space age challenges each of us to find our range and keep it.

I call the school administrator, the city and county managers, and the recreational director the social engineers of the age. Most of the scientific engineers of modern life will look to the social engineer for safe progress. This group has the opportunity to contribute solutions to present and future problems which will determine our ultimate destiny. □

The Board of Trustees of the University of North Carolina: A Comparison with Other Governing Boards

by Robert E. Phay

[*Editor's note: The make-up, selection, and size of the Board of Trustees of the University of North Carolina have become topics of general interest now that they are being studied by a commission headed by former Governor Luther H. Hodges. The General Assembly of 1965 has charged the Commission to make a detailed and exhaustive study of the manner in which University trustees are selected, the number that should constitute the board, their terms of office, and their relationship to the General Assembly and other interrelated agencies of the State. The Commission will make its report within one week after the convening of the 1967 Session of the General Assembly.*]

Introduction

This article is a collection and analysis of information on selected characteristics of the governing boards of state-supported institutions of higher learning. It was prepared with a view to its possible relevance to certain aspects of the inquiry of the recently created state legislative Commission on the Study of the Board of Trustees of the University of North Carolina.[1] The scope of this research is selective and limited, both with respect to the number of boards reviewed and the type of board characteristics considered. As to the first limitation, consideration is restricted to 22 boards located in 19 states. The majority of these boards, 19 in number and including the Board of Trustees of the University of North Carolina, comprises the state-supported institutions that are members of the Association of American Universities. The other three boards, those of the Universities of Georgia, South Carolina, and Tennessee, are added because they are state-supported institutions within states adjacent to North Carolina.

The second limitation on scope is in the number of board characteristics examined. Six items are included in this limited study of institutional governing boards. All are characteristics basic to the board structure of the institutions in question. They are:

1. Method of selection of board members;
2. Total number of members;
3. Length and overlapping of terms;
4. Succession of term;
5. Special requirements for members specified by law; and
6. Legal status of boards.

These characteristics are obviously but a few of the considerations which could have been taken. For example, no inquiry was made as to removal of members, filling vacancies, compensation,[2] or to the relationship of boards to either central state administrative agencies (i.e., budget, audit, purchasing, or personnel agencies) or to central, state-wide coordinating boards.[3] The purpose of this examination was neither to raise questions nor to provide answers. The approach followed was to collect the facts, categorize them in tables found in the appendices, and then review them in the light of the existing commentary in the field of trusteeship. This review is found at the end of each section.

The author is an Assistant Director at the Institute and has worked with the Commission since it began its study.

With respect to the appendices, a word of explanation is in order. The boards were divided, somewhat arbitrarily, into boards that are responsible for only one institutional unit and boards that are responsible for two or more institutional units. The former is termed a "governing board" and the latter a "governing-coordinating board" —terminology borrowed from S. V. Martorana and Ernest V. Hollis in their comprehensive study *State Boards Responsible for Higher Education*. The Board of Trustees of the University of North Carolina falls within the second category, since it exercises control over four separate institutional units. Data collected for governing boards can

1. N.C. Sess. Laws 1965, Res. 73.

2. See Aaron J. Brumbaugh, *State-Wide Planning and Coordination of Higher Education* (Atlanta: Southern Regional Education Board, 1963).

3. See S. V. Martorana and Ernest V. Hollis, *State Boards Responsible for Higher Education*, U.S. Dept. of Education Circular OE-53005 (Washington, D. C.: U. S. Government Printing Office, 1960) for a discussion of all three of these problems.

be found in Appendix I at page 12, and the data collected for governing-coordinating boards can be found in Appendix II at pages 12 and 13.

I. Method of Selection

There were six basic methods used in the selection of members by the institutional governing boards examined. They are:

1. Appointment by the governor;
2. Election by popular vote;
3. Election by the state legislature;
4. Election by the alumni;
5. Election by a special group; and
6. Ex officio membership.

Of these six, appointment by the governor is the one most commonly used. Thirteen of the 22 boards examined (Or 59 per cent) are selected by this method, with appointment to 12 of them requiring confirmation by the upper house of the state legislature. Two of these 13 boards, however, have only part of their members appointed by the governor.[4]

In terms of the total number of trustees on the 22 state university boards, 143 of a grand total of 362 trustees, or 40 per cent, are appointed by the Governor to their trusteeship. Compared to the national average for 209 boards of state-supported institutions of higher education, compiled in 1960 by Martorana and Hollis for the U. S. Department of Health, Education and Welfare,[5] this percentage is low. Martorana and Hollis reported that 70.2 per cent of all state board members are appointed. This difference of 30 per cent from the national average is due primarily to the fact that 100 members of the 107-member Board of Trustees of the University of North Carolina are elected by the state legislature.[6] Omitting the Board of Trustees of the University of North Carolina, we find that 57 per cent of the members of the remaining 21 boards are appointed.

With the exception of the ex officio members, the remainder of the members of the 22 boards, or approximately 52 per cent, are elected in some manner. A breakdown by type of election may be seen in Table A. Worthy of note is the large number, 126 (or 35 per cent of board members), elected by state legislatures. North Carolina, with its 100 legislatively-elected members and a board three times as large as the next largest state university board, greatly increases this percentage. Also noteworthy is that four boards, in the states of Illinois, Michigan, and Nebraska, select trustees by popular vote.

Election by the state legislature, as seen in Table B, is used in choosing the members of only three (or 14 per cent) of the 22 institutional boards examined. In terms of the type of board, it is interesting to note that 73 per cent of the governing-coordinating boards (of which the University of North Carolina Board is one) employ the appointive method for selection of all or some part of their board.

Table A

Selection According to Total Number of Members

Methods of Selection	*Number of Members*	*Percentage of Total*
Appointed by governor	143	40%
Elected by popular vote	31	8
Elected by state legislature	126	35
Elected by alumni	15	4
Elected by special group	17	5
Ex officio	30	8
Total	362	100%

Table B

Selection Policy According to Board

*Methods of Selection**	*Number of Boards*	*Percentage of Total*
Appointed	13	59%
Elected by popular vote	4	18
Elected by legislature	3	14
Elected by special group	2	9
Total	22	100%

*Many of these boards have a minority of members selected in one or more of several different ways. Each board was categorized, however, on the basis of the method of selection of the majority of its members.

The last of the six methods of selection is ex officio membership. Ex officio members constitute 8 per cent of the total board membership and are found on 50 per cent of the 22 institutional boards examined. Ten per cent more of the governing-coordinating boards have ex officio members than do the governing boards. The six Southern boards have the highest percentage, with ex officio members on 66 per cent of them.

It is apparent that little unanimity exists as to the best method of selecting trustees. Perhaps the lack of uniformity reflects what should be obvious: Each system has evolved from a political, economic, and educational background peculiar to its state. Perhaps this explains why Moos and Rourke, in a study of public institutions of higher education and American state governments, report that "an overwhelming majority of regents in favor of the method by which their own boards were selected."[7] Nevertheless, Martorana and Hollis recommend from their study on state boards, that "the appointive process produces a

4. The Trustees of Purdue University are elected in part by the alumni, and the Board of Trustees of Pennsylvania State University are elected in part by alumni and in part by special interest groups.

5. Martorana and Hollis, *op. cit. supra* note 3, at 26.

6. In addition to the 100 elected members, there is one ex officio member and six honorary lifetime members. The Superintendent of Public Instruction is made an ex officio trustee by N.C. Gen. Stat. § 116-4 (Supp. 1965). He has the privilege of voting and is counted in establishing a quorum. The six honorary lifetime members can be divided into two categories—former governors of the State of North Carolina who are made trustees by public law and individual citizens who have been made trustees by joint resolution of the General Assembly. N.C. Gen Stat. §116-5 (1960), which makes former governors honorary members of the Board of Trustees, confers upon them the privilege of voting. The joint resolutions that have named the second category of lifetime members, makes no mention of a voting privilege. They apparently have none.

The current Governor is often mentioned as an ex officio member of the board. Technically he is not. N.C. Gen. Stat. § 116-9 (1805) authorizes him to "preside at all the meetings of the board at which he may be present," but it does not confer membership or a voting privilege upon him. Presumably he would have the right to vote in the event of a tie vote.

7. Malcolm Moos and Francis E. Rourke, *The Campus and the State* (Baltimore: The Johns Hopkins Press, 1959), p. 304.

better quality of interest and balance of background experience among board members than does the elective process."[8]

Moos and Rourke, who share this opinion, suggest that one reason why the appointive system works best is that meddling in higher education is not "good politics,"[9] and governors, more often than legislatures, have refrained from throwing it into the hopper of politics. "To avoid giving any appearance of political interference," they say, "governors sometime go to great lengths to make conspicuously non-political appointments to governing boards."[10]

The ex officio method of selection deserves special note. In recent years its use has declined.[11] The state of Georgia, for example, in 1946 by constitutional amendment removed their governor from membership on the Regents of the University System of Georgia. This fact is particularly interesting since the constitutional amendment invalidated an act of 1931 and another in 1937, both of which had made the governor an ex officio regent.

Many students of the trustee system view this tendency to reduce ex officio members as a desirable one. The value of the governor (the most common ex officio member on state institutional boards) as an ex officio member on any board, not just trustee boards, was questioned by Leslie Lipson in his book, *The American Governor from Figurehead to Leader*. He states:

> Such requirements that the governor himself directly participate in administrative minutiae are of manifest futility. They defeat their own ends. The governor has so much to do that he cannot give time to all the boards. If, however, he does attend, either he is frittering away his energy on henhouses and piggeries or he has to secure a majority vote on important matters by "trading" with the other members. In neither case can there be effective overall supervision of general administrative policy.[12]

Another study stated categorically that the "number of ex officio members should be kept to the minimum allowed by law."[13] Still another survey reported the revealing fact that boards which have ex officio membership are divided as to their contribution to the system, while boards without ex officio membership expressed a strong preference to have none.[14]

It appears, therefore, that the writers on the subject favor a limitation or an exclusion of the ex officio member. It should be remembered, however, that the technique of selection is but a technique. The appointive system, if it be the best, can and has failed. A board can succeed only where public opinion in the community "insists upon putting the affairs of higher education in the most capable hands."[15]

8. Martorana and Hollis, *op. cit. supra* note 3, at 29.
9. But note the tragic situation which developed in Mississippi when Governor Ross Barnett attempted to "stack" the board for political, racist reasons.
10. Moos and Rourke, *op. cit. supra* note 7, at 301. But see quote from an Arizona regent: "Although we give lip service to the idea that appointments are not 'political,' in effect they are. It is rare for a governor to appoint a member from a party other than his own unless that individual has aided his campaign." *Ibid.*
11. *Id.* at 243.
12. Leslie Lipson, *The American Governor from Figurehead to Leader* (Chicago: University of Chicago Press, 1939), p. 37.
13. Martorana and Hollis, *op. cit. supra* note 3, at 29.
14. Moos and Rourke, *op. cit. supra* note 7, at 305.
15. *Id.* at 304.

II. Size of Board

The Board of Trustees of the University of North Carolina is labeled by Martorana and Hollis as the "grandiose exception" in their discussion of the size of state institutional boards, and they omit it from their computation of average board membership in order to "present a truer picture."[16] They found the arithmetic average size of the 209 public university and college boards they studied to be 10.6 members. The average membership of the 22 boards under examination here is 16; if North Carolina is excluded, the average is 12. With respect to the different types of boards, the governing board had an average membership of 9.6, the governing-coordinating board an average of 20, and the six Southern boards of both types an average of 29.5. The presence of North Carolina in the latter two computations is apparent.

The question, what size should an institutional board be to function best, has only one answer: the size that works best for that particular institution or institutions. Nevertheless, some useful generalizations and recommendations can be garnered from current commentary in the area of trusteeship. If one excludes the extremes in attempting to find the "best" size, as all commentators seem to do, the North Carolina board would have to be rejected.[17] Two authorities who addressed themselves specifically to this board state that:

> In the case of the unique University of North Carolina 102-member board, 10 members constitute a quorum.[18] All this certainly tends to confirm a conclusion that a large membership only contributes to unwieldiness and less than maximum efficiency in board operation.[19]

In defense of this large board, however, it can be noted that it has functioned creditably. Perhaps it has done so in spite of its size, perhaps because of it, or more likely, because most of the powers of the board are exercised routinely by the 12-member Executive Committee of the board.[20]

As stated above, commentators who have addressed themselves to the problem of institutional board size prefer boards considerably smaller than that of North Carolina. For example, Charles Eliot, former President of Harvard, stated in 1908 that the best number is seven,[21] and 50 years later, John Russell, in a staff study of higher education in Michigan observed that "long experience in the American system of institutional control by boards indicates that a membership of from five to nine persons results in good procedure."[22]

In search of reasons why people who have studied and worked with state institutional boards prefer them small,

16. *Op. cit. supra* note 3, at 28.
17. The extremes of the twenty-two boards examined range from a low of six on the Board of Regents of the University of Nebraska to a high of 107 members on the Board of Trustees of the University of North Carolina.
18. The 1963 General Assembly changed the number required to constitute a quorum from 10 to 51. See N.C. GEN. STAT. § 116-8 (1963).
19. Martorana and Hollis, *op. cit. supra* note 3, at 34.
20. N.C. GEN. STAT. § 116-11 (1960) creates the Executive Committee. See Victor S. Bryant, "The Responsibilities of Trustees of a State University," Address made to the University of North Carolina Faculty Club at Chapel Hill, N. C., October 2, 1956.
21. Edward C. Eliot, *University Administration* (Boston: Houghton-Mifflin Co., 1908), p. 2.
22. John Dale Russell, *Higher Education in Michigan*. The final report of the survey of higher education in Michigan (Lansing, Mich.: Michigan Legislative Study Committee on Higher Education, 1958), p. 12.

APPENDIX I.
GOVERNING BOARDS

Name of Institution	Number	Ex Officio	TERM Length (Yrs.)	TERM Successive	TERM Overlapping	Selection[1]	Special Requirements	LEGAL STATUS Creation	LEGAL STATUS Authority	Name of Board
Michigan State University	9	1 Univ. Pres.	8	yes	yes	B	none	CON*	CON	Board of Trustees of Michigan State University
University of Michigan	9	1 Univ. Pres.	8	yes	yes	B	none	CON	CON	Regents of the University of Michigan
University of Missouri	9	none	6	yes	yes	A*	yes[2]	CON & STAT**	CON & STAT	Curators of the University of Missouri
University of Nebraska	6	none	6	yes	yes	B	yes[3]	CON	STAT	Board of Regents of the University of Nebraska
Ohio State University	9	none	9	no	yes	A*	none	STAT	STAT	Board of Trustees of Ohio State University
University of South Carolina	18	4[4]	4	yes	yes	C	yes[5]	STAT	STAT	Board of Trustees of the University of South Carolina
University of Washington	7	none	6	yes	yes	A*	none	STAT	STAT	Board of Regents of the University of Washington
Average	9 median	43% with	6.7	86%	100%	43% A, 43% B, 14% C	43% with	50% CON	36% CON	

* Constitution
** Statute

1. The following symbols will be used to indicate the type of selection:
   A—Appointment by the Governor (with the advice and consent of the senate if marked by an asterisk);
   B—Elected by popular vote;
   C—Elected by the state legislature;
   D—Elected by the alumni;
   E—Elected by special group.
2. Each member must be a citizen of the United States, a resident of Missouri for two years prior to his appointment, and must be appointed from a separate congressional district. Furthermore, not more than five members may belong to the same political party.
3. One member must be elected from each of the six regent districts corresponding with the present Supreme Court judicial districts.
4. The Governor, the State Superintendent of Education, and the Chairmen of the Committees on Education of the Senate and the House of Representatives are ex officio members.
5. Of the fourteen members elected by the General Assembly, one must come from each of the fourteen judicial circuits.

[This appendix and the following appendix were compiled from statistics published in S. V. Martorana and Ernest V. Hollis, *State Boards Responsible for Higher Education*, U.S. Dept. of Education Circular OE-53005 (Washington, D. C.: U. S. Government Printing Office, 1960).]

APPENDIX II.
GOVERNING-COORDINATING BOARDS

Name of Institution	Number	Ex Officio	TERM Length (Yrs.)	TERM Successive	TERM Overlapping	Selection†	Special Requirements	LEGAL STATUS Creation	LEGAL STATUS Authority	Name of Board	Inst. Units
University of California	24	8[6]	16	yes	yes	A	yes[7]	CON	CON	Regents of the University of California	8
University of Georgia	15	none	7	yes	yes	A*	yes[8]	CON	CON	Regents of the University System of Georgia	19
University of Illinois	11	2[9]	6	yes	yes	B	yes[10]	STAT	STAT	Board of Trustees of the University of Illinois	3
Indiana University	[illegible]	none	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	Trustees of Indiana University	[illegible]
Purdue University	[illegible]	none	[illegible]	yes	yes	A & B[13]	yes[14]	STAT	STAT	[illegible]	[illegible]

Purdue University	9	none	3	yes	yes	A & D[13]	yes[14]	STAT	STAT	University	5
State University of Iowa	9	none	6	yes	yes	A*	yes[15]	STAT	STAT	State Board of Regents	3
Iowa State University	9	none	6	yes	yes	A*	yes[15]	STAT	STAT	State Board of Regents	3
University of Kansas	9	none	4	yes	yes	A*	yes[16]	STAT	STAT	State Board of Regents	5
University of Minnesota	13	1 Chancellor	6	yes	yes	C	none	CON	STAT	Regents of the University of Minnesota	2
University of North Carolina	107	1[17]	8	yes	yes	C	yes[18]	CON & STAT	STAT	Board of Trustees of the University of North Carolina	4
Pennsylvania State University	32	5[19]	3	yes	yes	A, D & E[20]*	yes[21]	STAT	STAT	Board of Trustees of the Pennsylvania State University	16
University of Tennessee	18	4[22]	14	yes	yes	A*	yes[23]	STAT	STAT	Board of Trustees of the University of Tennessee	4
University of Texas	9	none	6	yes	yes	A*	yes[24]	CON & STAT	STAT	Board of Regents of the University of Texas	5
University of Virginia	17	1[25]	4	2 term max.	yes	A*	yes[26]	CON & STAT	STAT	Board of Visitors of Rector & Visitors of University of Va.	4
University of Wisconsin	10	1[27]	9	yes	yes	A*	yes[28]	STAT	STAT	Regents of the University of Wisconsin	10
Average	11 median	53% with	6.7	100%	100%	73% A	93% with	30% CON	13% CON		6.8

6. The Governor, Lieutenant Governor, Speaker of the Assembly, Superintendent of Public Instruction, and Presidents of the State Board of Agriculture, of the University, of the Alumni Association of the University, and of the Mechanics Institute of San Francisco are ex officio members.
7. The appointments must "keep the university free from all political and sectarian influence." Cal. Const. art. 9 § 9.
8. One member must be appointed from each of the ten congressional districts and five members from the state at large.
9. The Governor and the Superintendent of Public Instruction are ex officio members.
10. Members may not hold any position under authority of the board, nor hold any other state or federal elective office, or be interested in any contact with the board.
11. Of the eight members, five are appointed by the State Board of Education with the approval of the Governor, and three are alumni elected by the alumni of the University.
12. Three must be alumni, and no more than two of the eight may reside in the same county.
13. Of the nine members, six are appointed by the Governor, and three are elected by the alumni.
14. Of the six chosen by the Governor, two must be prominent in agricultural pursuits, two must be engaged in the manufacturing industry, and two must be "citizens of character and distinction." One of these six must be a woman. Of the three selected by the alumni, all shall be graduates, be members of the alumni association, and reside in Indiana, and one shall be a graduate of the school of agriculture.
15. Not more than five members may be appointed from the same political party, nor may more than one alumnus from each of the three institutions be a member during the same time.
16. Members must be residents of Kansas.
17. The State Superintendent of Public Instruction. There are also six honorary lifetime members who, when added to the 100 elected and one ex officio member, make a grand total of 107 trustees on the Board of the University of North Carolina. The Governor is the presiding officer.
18. Ten of the members must be women.
19. The Governor, the President of the University, the State Superintendent of Public Instruction, the Secretary of Agriculture, and the Secretary of Mines and Mineral Industries are ex officio members.
20. Of the 32 members, six are appointed by the Governor with confirmation of the Senate, six are elected by the delegates from county agricultural societies, six are delegates from county industrial societies, nine are alumni elected by the alumni of the University, and five are ex officio.
21. Of the 32, nine must be alumni.
22. The Governor, the Commissioner of Agriculture, the Commissioner of Education, and the President of the University are ex officio members.
23. The 14 members appointed by the Governor must meet the following requirements: at least one-third must be alumni of the University; at least one-third must be members of the principal minority political party of the State; five must be residents of, or have principal offices located in counties as follows: two, Knox County; two, Shelby County; and one, Weakly County; and there must be one from each of the nine congressional districts.
24. Members must be qualified voters, selected from different parts of the states.
25. Superintendent of Public Instruction.
26. Of the 16 members appointed by the Governor, 11 must be alumni of the University, at least 13 must be selected from the State at large, and not more than three may be nonresident alumni.
27. State Superintendent of Public Education.
28. Not more than two members may be appointed who are residents of the same county.

† See note "1" in Appendix A for the scheme of the selection method.

Martorana and Hollis advance several ideas. First, large numbers create cumbersome, unwieldy units for the transaction of business. Secondly, as the number increases the tendency of factional splitting also increases. Thirdly, conflicts of dates for meetings are more probable in a large group. And fourthly, the expense of travel and per diem costs increases with size. For these reasons, augmented by the political scientist's rule of thumb that nine is a maximum number for optimum board or commission operation, Martorana and Hollis categorically state that "ideally, boards should have an uneven number of members, not fewer than 9 nor more than 15."[23]

III. Length and Overlapping of Terms

The average term for all 22 boards is 6.7 years. This term is the same for both the governing boards and governing-coordinating boards and is only slightly higher, seven years, for the six Southern boards. This figure is also close to the national average of 6.1 years[24] and ranges from a low of three years for the University of Indiana, Purdue University, and Pennsylvania State University boards to 16 years for the University of California board.

The members of all 22 university boards serve overlapping terms. Overlapping terms and terms of long length can be viewed in a similar light. They both promote the same desirable goals. As Moos and Rourke note, staggered, long terms minimize political interference and serve to "sustain a spirit of independence by a governing board."[25] Trustees of the North Carolina board serve 8-year, overlapping terms, twenty-five trustees being elected every two years.[26]

The effect of a long term in achieving these goals is more apparent than that of overlapping terms. With respect to the overlapping term it can be noted that it encourages these objectives in several ways. It provides continuity in the board and assures it, at a time of turnover, of members with prior experience and (presumably) expertise in board matters. It also serves to limit the influence of the appointive authority on those boards selected by the governor and to minimize the impact of a particular—perhaps temporary—issue when the board is selected by any method. Furthermore, in the case of election by the state legislature or by a special group, the control of the electoral body by a particular political party at the time of selection would probably produce a board of similar partisan views. This possibility is also minimized by overlapping terms.

IV. Successive Terms

On all but one of the 22 boards examined, members can succeed themselves. In the case of the Board of Trustees of the Ohio State University, the Ohio Code states "No person who has seved a full nine-year term or more than six years of such a term shall be eligible for reappointment."[27] Virginia also has a limitation on service, not permitting more than two terms in succession, although afrer a lapse, another two terms may be served.[28] The commentators on trusteeship who were read expressed no opinion on the advisability of successive terms.

V. Qualifications of Board Members

Seventeen of the 22 boards (or 77 per cent) have special requirements that must be satisfied in the selection of at least a portion of their trustees in order for the board to be legally constituted. It is interesting to note that only 43 per cent of the governing boards (as opposed to 93 per cent of the governing-coordinating boards) have special qualifications. This large differential is most likely attributable to what is deemed a need for proper balance in a board responsible for two or more institutional units. Where there is a potential for conferring benefit on one institution at the expense of another, state legislatures apparently think it necessary to add external controls to insure equitable decision-making. (See Table C.)

Table C

Individual Qualifications of Board Members

Type of Qualification	*Number of Boards*
Residence within a state and/or specified district	10
Alumni status	5
Bipartisan	4
Sex	2
Conflicting allegiances	2
Profession or occupation	1

The special requirements prescribed by law can be classified by seven types:

1. Residence within a state and/or specified district;
2. Alumni status;
3. Bipartisan representation;
4. Sex;
5. Prohibition of conflicting allegiance; and
6. Profession or occupation.

The most frequently required qualification is that of residence, which is found in 45 per cent of all boards, where the law often requires not only state citizenship but also residence in a specific county or congressional district as well. In some cases, as for the Trustees of Purdue University, the law requires qualifications with respect to sex, profession, institution attended, and residence. Most boards, however, have only one requirement to satisfy in order to be legally constituted. The Board of Trustees of the University of North Carolina is one of these. It is required by the state statute to have at least ten women among the 100 members elected by the state legislature.[29]

It has been suggested that qualifications for board membership such as sex, residence, or possession of a degree from a particular university are undesirable restrictions on the process of selecting members of institutional governing boards.[30] When an attempt is made to achieve such

23. Martorana and Hollis, *Op. cit. supra* note 3, at 29.
24. Council of State Governments, *Higher Education in the Forty-Eight States* (Chicago: Council of State Governments, 1952), p. 127.
25. Moos and Rourke, *Op. cit. supra* note 7, at 305.
26. See N.C. GEN. STAT. § 116-4 (Supp. 1965). Although the statutory term is 8 years, the average length of service of the currently elected 99 trustees (there is one unfilled trustee position) is 8.72 years. The six honorary members have served an average term of 12.8 years, and the average length of service for all 105 members (99 elected and 6 honorary) is 8.93 years.
27. OHIO CODE ANN. § 3335.02 (1963).
28. VA. CODE ANN. §§ 23-69 (1950).
29. N.C. GEN. STAT. § 116-4 (Supp. 1965).
30. See Martorana and Hollis, op. *cit. supra* note 3, at 32.

goals as a board balanced with respect to geography or sex or a board with members who have an intense pride and interest in the school, the more important goal of selecting the most able people is sometimes frustrated by eliminating from consideration individuals who cannot satisfy these requirements but who are well suited for trusteeship.

Even more questionable are requirements that certain board members be selected from a specific profession or political party. Trustees chosen on such bases often see themselves as a representative of a particular element in society and tend to place the interest of their profession or party above that of higher education.[31] If state legislatures (or constitutional conventions) think conditions for membership must be set, it probably is better to frame them in the terms of "men and women of character and demonstrated capacity and possessing a strong interest in public service,"[32] than in the specific characteristics of profession, sex, residence, or possesion of a degree from a particular university.

VI. Legal Status of Boards

The legal character of state institutional boards is largely determined by the instrument through which legal authority is transferred to the board. If the state constitution is used to create, organize, or incorporate the board, it possesses a degree of independence not found in boards authorized by state statute. When the state constitution grants full authority to the board of trustees to govern the university, the board can be classified as a constitutional corporation. This grant of authority creates a formidable barrier against interference in institutional affairs by either the voters or popularly-elected state officials not on the board. One commentator has gone so far as to characterize such universities as ". . . a fourth branch of the government, coordinate in some respects with the executive, legislative, and judicial branches."[33]

Nine of the 19 states examined, including North Carolina, [34] have used their constitutions to confer some measure of authority on their university governing boards. The number of constitutional corporations on which complete authority and corporate powers have been so conferred, however, is very limited. Of the 22 boards examined, only five boards, located in four states, can be classified as constitutional corporations.[35] They are the Universities of California, Georgia, Michigan, Minnesota, and Michigan State University. In the remaining five states the extent that the constitution has been used to create, organize, or incorporate state universities is varied. In some cases the use of the medium of higher law is substantial while in others it is only perfunctory. Even in the latter case, however, the mere mention of the board in the constitution tends to create some legal insulation from legislative interference. (See Table D.)

Table D

Legal Means Used for Conferring Authority

Legal Provisions	*For Creation*	*For Managing Authority*	*For Corporate Status*
Statutory	12	16	17
Constitutional	6	5	5
Constitutional-Statutory	4	1	0

The nine states with some constitutional provision are represented here by ten boards, or 45 per cent of those examined. Of these, four have constitutional provisions that relate only to the creation of the board, with the heart of the authorization found in the statute. Thus the majority of these boards are creatures of their state legislature, which makes it necessary for them, in the opinion of one commentator, to "make their case for the freedom of higher education in the legislature or in the forum of public debate, unprotected by any shield of legal autonomy. The independence of these schools thus stands in constant need of being nourished and replenished by the support of the community."[36]

The desirability of a constitutional grant of authority is apparent, assuming the minimization of political interference in institutions of higher learning is one's goal. The authorities reviewed were unanimous on this point.[37]

VII. Conclusion

If the combined recommendations of the foregoing sections were followed, institutional governing boards would be constitutional corporations, appointed by the governor with the advice and consent of the state senate, and consisting of from nine to 15 members appointed for long, overlapping terms. Such a board, however, even if it consisted of the ablest people the state had to offer, would not and could not function properly unless it had a measure of autonomy that removed it from political fetters.

This problem of freedom from political restraint was a recurring theme which ran throughout the examination of the mechanical aspects of trustee boards. A persistent, fundamental dilemma of the democratic society is how to reconcile the independence of a state institution with the need for responsibility to and review by the people. This problem is particularly difficult when either the voters or their popularly-elected state officials are not as qualified by experience and knowledge to make certain decisions as is another institution. The other institution in this case is the board of trustees, and in turn the university, and the decisions of concern here are those involving the direction and development of higher education. Characteristically, university governing boards have been set apart and endowed with a degree of autonomy not afforded other state agencies.[38]

31. Morton A. Rauh, *College and University Trusteeship* (Yellow Springs, Ohio: Antioch Press, 1959), pp. 59-60.
32. Martorana and Hollis, *op. cit. supra* note 3, at 32.
33. M. M. Chambers, *The Colleges and the Courts 1936-40* (New York: The Merrymount Press, 1941), p. 35.
34. See John L. Sanders, "The Legal Development of the University of North Carolina," (unpublished study, Institute of Government, University of North Carolina at Chapel Hill, 1965) for a historical treatment of the legal provisions affecting the University of North Carolina.
35. Of the remaining 31 states not examined in this paper, only four have boards of trustees which can be considered constitutional corporations. They are the University of Colorado, University of Idaho, Oklahoma State University, and the University of Utah. See William P. Wooden, "Legislative Control of a Constitutional Corporation," 55 *Mich. L. Rev.* 728 (1957).
36. Moos and Rourke, *op. cit. supra* note 7, at 19.
37. See Report of the Committee on Government and Higher Education, *The Efficiency of Freedom* (1959) and Harold Benjamin (ed.), *Democracy in the Administration of Higher Education*: Tenth Yearbook of the John Dewey Society. (New York: Harper & Bros., 1950).

Perhaps it appears out of place to raise, in what is essentially an examination of mechanical and organizational aspects of institutional governing boards, the problem of institutional board freedom. This is true only if it is not relevant to the whole matter of size, term, tenure, and selection of boards of trustees. Quite the contrary has been found. In fact, all of these organizational questions are of importance chiefly as they bear upon the freedom and competence of the board to govern the institution for which it is responsible. Boards, even those as mechanically encumbered as is the North Carolina board, function well if they enjoy a relatively secure, politically free position. The other matters of organization charted in the appendices have, it has been found, relatively little impact upon the ability of the board to function effectively as a policy-making body.[39] The basic function of a state university—"the conservation, dissemination and advancement of the collective knowledge of society"—can only be discharged in an "atmosphere of freedom."[40] □

38. Council of State Governments, *op. cit. supra* note 24, at 132.

39. For a similar conclusion with respect to the role of the individual trustee see Rauh, *op. cit. supra* note 31, at 65.

40. Moos and Rourke, *op. cit. supra* note 7, at 3.

By Allan W. Markham

Do you know the extent to which local boards of education are responsible for adopting regulations concerning school bus transportation? Do you know which aspects of school transportation are under the rule-making authority of the State Board of Education and what regulations are set out in the statutes? Since 1955 the general laws of North Carolina have provided a rather unique division of authority for school transportation between the State and local school boards.

Before 1955 the State, through the State Board of Education, operated all local school transportation systems, providing both financial and administrative control. Legislative changes in that year, however, resulted in the inclusion of many policy regulations in the statutes themselves while the authority to make other regulations was shifted from the State Board to local school boards. The State nevertheless has retained the responsibility for providing most of the funds for transportation, which are appropriated to the State Board in the Nine Months School Fund.

Under the existing legal arrangement, the State Board of Education has the authority to:

(1) regulate the allocation of transportation funds among the administrative units providing transportation;
(2) promulgate specifications concerning construction, equipment, maintenance, and capacity of school buses;
(3) determine qualifications and salaries of local school bus drivers; and
(4) establish criteria by which old or damaged buses will be replaced at state expense.

The school transportation laws contain detailed regulatory provisions pertaining to:

(1) pupil eligibility for state-supported transportation, based on location of residence with respect to the school to which assigned;
(2) purposes for which local school buses may be used;
(3) procedures for mechanical inspections of buses;
(4) purchase by local units of equipment and supplies for school bus maintenance; and
(5) state compensation for injuries arising from school bus accidents.

Local school boards and school officials have statutory authority to:

(1) decide if local school bus transportation will be provided (local school board);
(2) determine bus routes (board and superintendent);
(3) assign buses to schools within unit (superintendent);
(4) assign pupils to individual buses (principal);
(5) determine the number of buses to be owned and operated by the administrative unit (board—additions to local bus fleet must be purchased with local funds; funds for replacements are provided by the State Board);
(6) employ and assign drivers to schools (board and superintendent);
(7) make policy regulations regarding certain uses of school buses (board—within limits prescribed in statutes);
(8) determine if school employees will be provided transportation (board);
(9) adopt additional safety regulations (board); and
(10) contract with persons, firms, or corporations for school transportation (board).

There are two statutory limitations on the eligibility of local administrative units to receive state funds for school transportation. First, neither the State nor local administrative units are under a legal obligation to provide funds for the transportation of pupils living closer than one and a half miles from the school to which assigned. Second, neither the State nor local government is required to provide funds to transport children living within a city or town to a school located within the same municipality, irrespective of the distance involved. Traditionally, the General Assembly has not appropriated funds for transportation under either circumstance. Because of the lack of adequate transportation facilities in some urban areas, however, some boards of county commissioners do provide local school boards with funds to provide "in-city" transportation.

Boards of education operating school transportation systems should be thoroughly familiar with the regulations set out in the statutes and should formally adopt policies and regulations on all matters provided by law. Although the State Board has no

Federal Court Invalidates "Pearsall Plan"

by Allan W. Markham

Markham (left), an Institute Assistant Director specializing in the field of education, chats with John Entwistle, Chairman, Rockingham City School Board and North Carolina State School Boards Association President. The occasion was an in-service conference for members of local boards of education jointly sponsored by the Association, the School of Education at UNC in Chapel Hill, and the Institute of Government.

regulatory authority over these matters, it may offer assistance and advice whenever requested by local school boards. This service can be particularly useful because of the State Board's substantial pre-1955 experience in operating a state-wide school transportation system. □

A special three-judge Federal court has recently ruled that North Carolina's so-called "Pearsall Plan" violates provisions of the United States Constitution and is therefore void. Originally enacted at a 1956 special session of the General Assembly, the Pearsall Plan included an amendment to the North Carolina Constitution (adopted by State-wide vote in September, 1956) and several amendments to Chapter 115 of the General Statutes, the public school laws.

Of primary importance among the statutory changes was the addition of Articles 34 and 35 to Chapter 115. These Articles provided respectively for the closing of public schools on a local basis, if approved by referendum, to avoid desegregation and the payment by the State of "education expense grants" to children for which segregated public schools were not available and whose parents objected to assignment to desegregated schools. The grants were to be used for the purpose of attending private, nonsectarian schools only. The constitutional amendments specifically authorized the purposes of these two Articles.

While none of the major provisions of the Pearsall Plan have ever been invoked, the application for and tentative approval of an education expense grant this year precipitated the suit which resulted in the declaration that the Plan is unconstitutional.

At present the exact affect of the court's decision on sections of the State school laws which were only amended or rewritten by the Pearsall Plan legislation is not entirely clear. Some officials are of the opinion, however, that the court at most intended to strike down only the portions of these statutes which were added or changed by the 1956 General Assembly and did not invalidate the entire sections. When more information is available on this aspect of the court's ruling, it will be reported in *Popular Government*. □

Book Reviews

THE EVIDENCE HANDBOOK. Robert L. Donigan and Edward C. G. Fisher. The Traffic Institute, Northwestern University, Evanston, Illinois, 286 pp. $10.

This book is intended primarily to be a reference work on evidence for law enforcement officers. In three particulars this intent is accomplished: the book is written in a plain style, easily understandable to the non-lawyer, it has a comprehensive table of contents, and it is well indexed. That it was intended primarily for law enforcement officers does not mean that it cannot be of use to lawyers. It provides a concise statement of practically all of the commonly used rules of evidence, and the discussions on the use of maps and diagrams and on the corpus delecti rule are as good as those that will be found in any of the standard texts on the law evidence.

The most serious weakness in the book is a lack of analysis in the chapters that deal with exclusionary rules based upon constitutional requirements, namely the exclusion of improperly obtained confessions and the exclusion of evidence obtained through unlawful searches and seizures. This weakness may be due in part to the incredulity with which the authors view the recent Supreme Court decisions in this area. In several places in the book it is stated that until the early 1960's the Bill of Rights was applicable only to federal action; then it was suddenly made controlling on the states! (Exclamation mark theirs, not mine.) This demonstrates a less than careful reading of *Palko v. Connecticut* and a good many subsequent Supreme Court cases. Whatever the cause of the inadequacy, the discussions of when a confession will be excluded and of unreasonable searches and seizures are not of a piece with the standard of quality prevailing in the rest of the book and will provide little guidance to law enforcement officers or to anyone else. — W.A.C.

Water Rights Law as a Means for Resolving Conflicts in Water Use

by Milton S. Heath, Jr.

[*Editor's note: This article is adapted from a talk delivered at the Governor's Conference on Beautification on April 8, 1966. A further installment on the same subject is planned for a fall issue of* Popular Government. *An Assistant Director at the Institute, Heath works in the field of water resource law.*]

One aspect of water use conflicts is currently of special interest to the North Carolina Department of Water Resources and will probably soon be in the minds of a lot of North Carolinians: water rights law. North Carolina is now looking toward water rights law as one way to resolve some of its most troublesome water conflicts. While there are other avenues of lessening these conflicts—developing and improving our waterways is an example—this discussion is limited to water rights.

The Department of Water Resources was directed by the 1965 General Assembly to undertake a study of the need for new water use legislation and to report its findings to the 1967 Assembly. The Department is now reviewing an initial report on the subject and expects to release the report and hold hearings within the next few months.

Need for SDWR Study of Water Use Law

The need for this study has arisen because of the pressures that modern society places upon water resources. Growing population, growing industrialization and intensified farm management all increase the demand for water. More and more often these pressures are creating trouble spots in our water economy. We have, for example, conflicts between some municipalities which need new sources of

Heath

public water supply, and other water users who might be affected adversely by development of those new sources. We have similar conflicts growing out of developments of other large water users. We have some conflicts between electric power generation and recreational uses of waters. We have some conflicts between agricultural drainage work and wildlife protection in some areas. These are just a few examples, and collectively they add up to the reason for the Department's water law study.

One of these conflicts, arising out of a mining development in the Pamlico Region, caused the Department of Water Resources to take a hard look at its legal authority to deal with such problems. When the Department concluded that there was a real gap in its powers, it proposed new legislation in 1965 to strengthen its position. The General Assembly did not accept this proposal but did request the Department to conduct a study of the subject of water use legislation and make recommendations. This is where the matter stands now.

Possible Contribution of Water Rights Law

Historically we usually describe American water rights law in terms of two opposing doctrines: the riparian rights concept that has prevailed in the Eastern United States, and the prior appropriation concept of the West.

In its original form the riparian doctrine said that every owner of land riparian to a stream—that is, adjoining a stream—was entitled to have the stream flow to him substantially undiminished in quantity and unimpaired in quality. This meant that all the riparian owners had the right to use a stream, but they couldn't do much to it. There was a corollary rule about the use of underground water, which said that usually the overlying owners were entitled to use the underground water as they pleased.

Out West there developed, at first by custom and later by law, some different rules reflecting the very different water conditions of the region. The prevailing Western doctrine took the name of prior appropriation, and it said that the first man who appropriated water to his own use had the prior right to use it in case of a shortage.

However, nothing stays still in law. The law of water rights has grown and changed in both East and West. In the East the courts in many states modified their rules by adding an element of reasonableness—by holding that riparian and overlying owners were entitled to make *reasonable* uses of streams and underground water. Then some of the state legislatures have come along and superimposed permits and other regulations on top of the common law doctrine. In the West the state legislatures refined the rules of prior appropriation in various ways, as by requiring that the prior appropriator obtain a permit to use a fixed amount of water, by imposing a test of beneficial use as a standard for appropriations, and by extending the rules from their original application on surface streams to ground water also. Out in California where the water problems are very fierce, that State has moved on beyond the rest toward a public utility treatment of water resources.

We in North Carolina have shared in some of this trend of change in water law, and now the question is being brought to a head: how much

Figure A

TRENDS IN WATER RIGHTS LAW

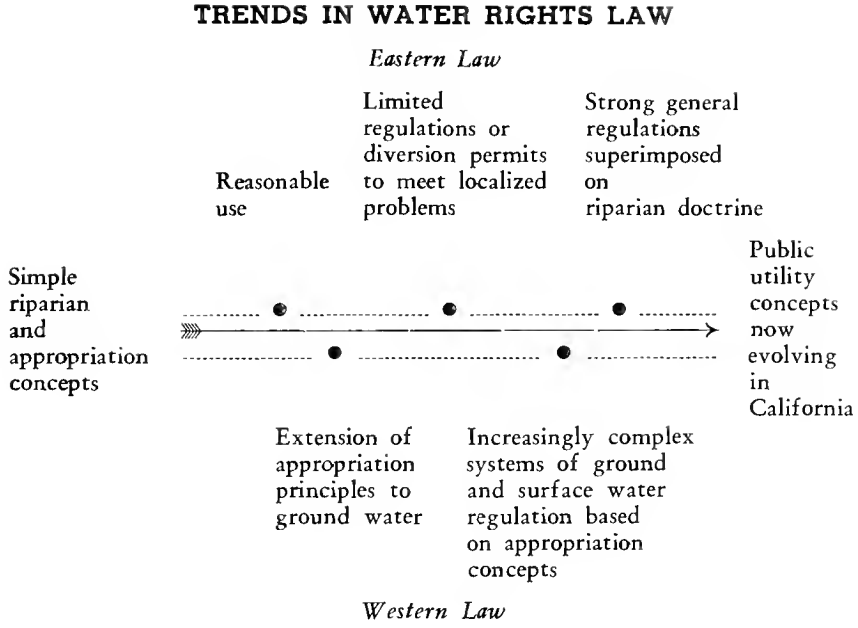
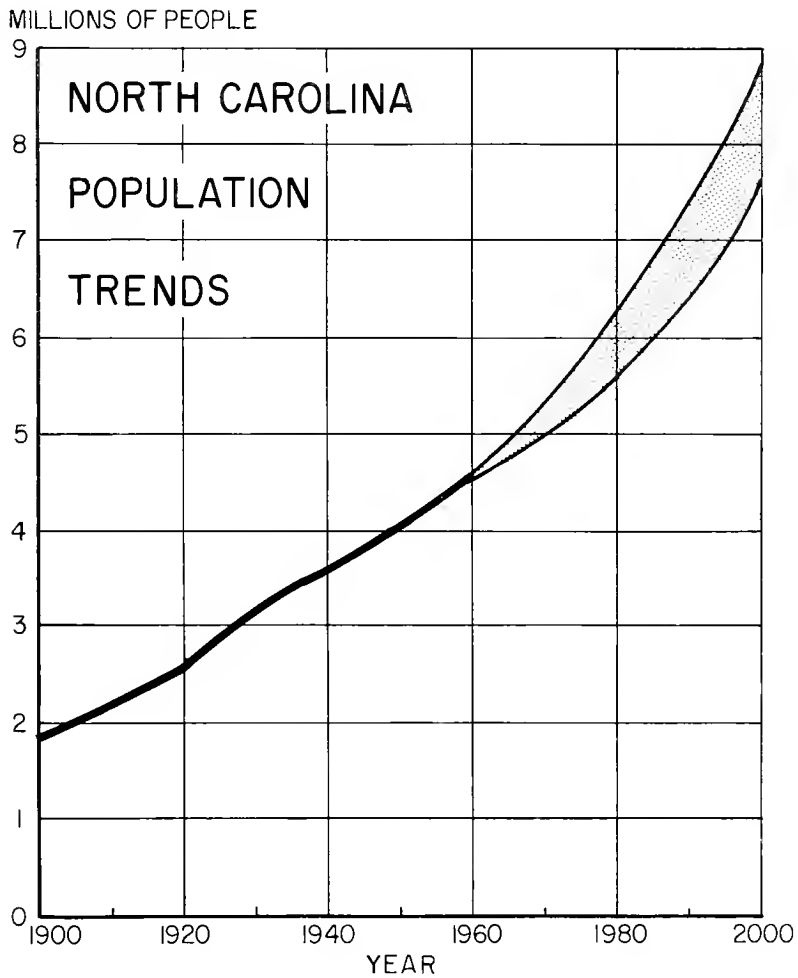


Figure B



further should we go, and when?

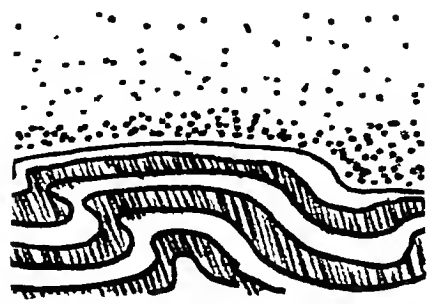
The Issue in North Carolina Today

I can illustrate the issue that is before our Department of Water Resources today by a line and curve, shown in Figures A and B. The line represents the trend of evolution of water rights law, and the curve shows the trend of population increase in North Carolina during the 20th century.

The further we move along this population curve in North Carolina, almost inevitably the further we will be pulled by circumstances along this trend line of water rights law—toward more extensive regulation.

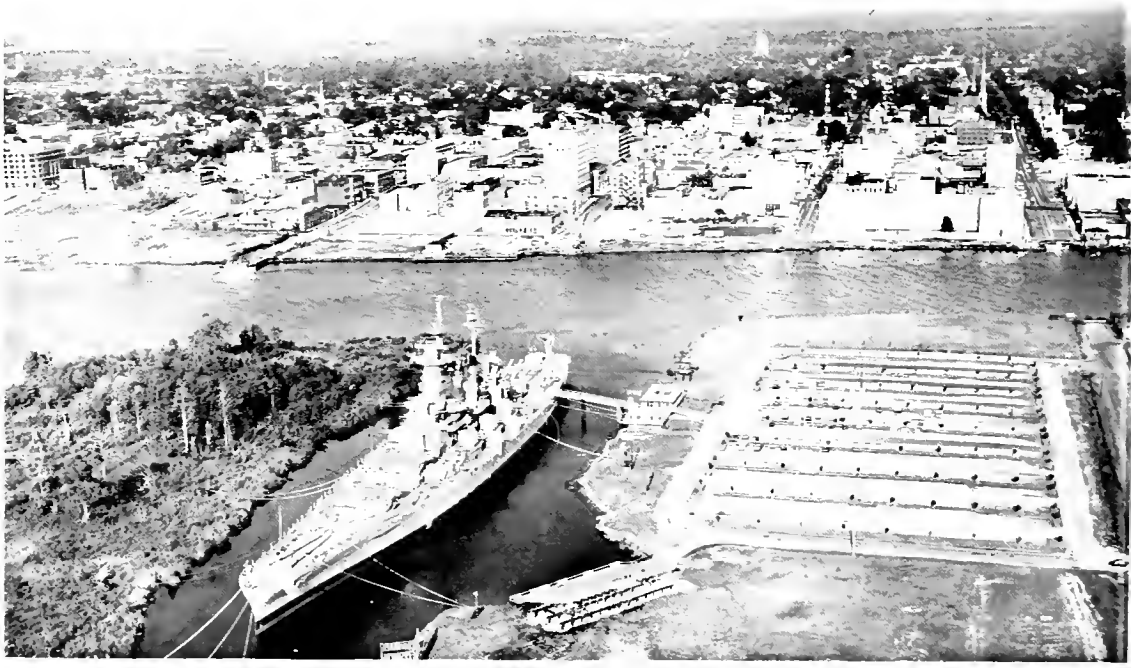
On the trend line of water rights law (Figure A) I have put the starting point for both Eastern and Western law at the left end of the line. The evolution of Eastern law is shown on the top side of the line and the evolution of Western law on the bottom side. At the far right end is identified the direction toward which I believe both the East and West are eventually moving—toward some concepts that resemble public utility law, as we are familiar with it. This is where the State of California, with its enormous water problems, has almost arrived now—or so it is viewed by some California water law experts. My main point in including this on the chart is to suggest that, if this analysis is correct, whatever is done to revise our water use law in North Carolina in the 1960's ought to be adaptable to this ultimate direction—it should be something that is not incompatible with the notion of utility-type regulation.

The Department of Water Resources will soon offer its expert judgment on how we ought to fit into this picture, and the General Assembly will then have the ultimate responsibility of deciding where we should go from here. □



WILMINGTON ★★★★ ★★★★★★★

All America City 1965



Air view shows Wilmington's Urban Renewal area with U.S.S. North Carolina Battleship Memorial in foreground.

Coastal Wilmington has joined a dozen other U. S. communities as one of the 1965 All America Cities. The award is given annually by *Look* and the National Municipal League and in past years Gastonia, Salisbury, High Point, Laurinburg, and Winston-Salem have been singled out for the honor.

The *Look* citation beneath a photograph of youthful ballerinas reads:

> WILMINGTON, N. C. This is a city at war with itself. Businessmen troll for new industry, expand old. Last year, labor unions grew to 5,000 members. But the two sides don't talk to each other. Integration plows ahead, jobs open up downtown. Still, the Good Neighbor Council has reported: "The Ku Klux Klan and the Citizens' Council are both active in the community . . ." Bright spots: A new, integrated hospital will soon replace aging segregated facilities. Arts revive. Diane Nesbitt, upper right corner, a ballet student five of her 11 years, practices in a community center gym. St. John's Art Gallery has doubled membership. A labor leader says: "It's the most beautiful city to raise your kids in."

This year's winners were narrowed out of a field of 142.

Look goes on to say:

> None of these winning cities is perfect. They admit that first. What makes them unique is the quality of the life within them. . . People work for these All America Cities. In turn, they have the dignity of shaping their lives—whether that is deciding where to build a house, get a job or ride a bicycle on a sun-soft afternoon.

As the last unit in the 1966 Azalea Parade passes the City Hall reviewing stand, crowds along the way fill the street in front of the New Hanover County Court House in Wilmington.

Planning and Zoning

By Robert E. Stipe

[*Editor's Note: Stipe is an Institute Assistant Director working in the areas of city and county planning, subdivision design, mapping services and recreation.*]

It appears to me that Governor Moore's two-day Conference on Beautification, held in Raleigh in early April and attended by several hundred people, will ultimately turn out to be one of the more significant events in recent North Carolina planning history. The conference was generally acclaimed by all who attended as an outstanding success, and it produced some notable and immediate results.

One such result was a very lengthy and detailed list of beautification problems now faced by the State and its communities, and an equally lengthy list of specific suggestions, legislative and otherwise, aimed at solving those problems. Another significant result was Governor Moore's announcement at the end of the conference that he would shortly appoint a State commission or council with a full-time professional staff to tackle these problems on a continuing basis.

But a third consequence, less obvious and perhaps more important in the long run, was the symbolic value of the conference itself, which was, in effect, to make "beautification" a respectable term and to set it up as a governmental objective to be pursued without embarrassment or timidity. In other words, as a result of the conference, the subject of community appearance is no longer a proper one only for the garden club ladies, city planners, landscape architects, and other professionals who have been concerned with it for a long time. The way is now open for it to be approached purposefully and directly.

This, of course, creates not only an opportunity for local government officials, but a number of tough problems as well. I was struck by this fact earlier this week as I sat through a meeting at the Chapel Hill town hall which had been called by our town planner to present to a representative group of citizens the initial results of his recently-completed "Community Appearance Survey." A major purpose of this meeting was to solicit from the assembled citizens a response which would be helpful to the planner in deciding what direct actions should be taken next in pursuing the objective of a more beautiful city.

Community appearance inventories of this kind are a relatively new type of planning study, very much in line with (and in response to) the rekindled interest of local officials in the City Beautiful—the rock, as some will tell you, upon which the modern city planning movement was founded some 70 years ago.

The Chapel Hill survey results were extremely interesting. With some ingenuity, the planner had worked out a system by which the major visual features and characteristics of the town could be recorded on a map. For example, major and minor "landmarks" (principally large and not-so-large buildings) were spotted on a map. Main thoroughfares were distinguished from minor ones. "Corridor" routes hemmed in with natural vegetation were identified in such a way as to contrast with roads having more open views. Fields and similar spaces, views of water, areas of high visibility from major roads, potential "landmark locations," and other similar features were shown. In all, the survey method represented a rather imaginative, if limited, approach to the initial problem of merely looking around and systematically recording visual assets and liabilities.

The audience response was also interesting. One person told a story which implied that getting good design in a democracy is difficult. Another had specific and vocal objections to a 21-story dormitory being planned for the University campus. A third suggested that the local garden clubs should tell downtown property owners to paint the backs of their stores. Another suggested tax relief for property owners or developers who do a better job of design. And so on.

These random reactions, based on individual points of view, merely serve to point up the extreme difficulty the group encountered in facing up to the major issue: What do you do with this kind of information once it is gathered? How do you arrive at a community consensus as to what is visually desirable? Is it even possible to do so? And, assuming that the underlying purpose of such inventories is to use them as a basis for developing a plan of action, what form should the plan itself take? And how and at what point do the objectives of the plan fit in with the range of land use control devices that have traditionally been available to carry out city plans? Suppose, for example, that such a survey were to indicate the presence of a magnificent vista down a rural valley on the outskirts or at the entrance to the town. Presumably an objective of the plan would be to preserve the vista. The question of *how* to do so becomes an extraordinarily complex one, particularly in view of the fact that not one, but perhaps hundreds of property owners might be involved in attempts to protect or control such a view. Or, to take another problem, how does one convince a public agency, particularly one clothed with the power of eminent domain, that its building is too high, if the only objection is one of its mere visual appearance against the skyline.

Other problems will suggest themselves as more and more cities begin to struggle with the problems of community appearance.The Chapel Hill study was undertaken by its planning board. But can the typical planning board, given its already consuming responsibilities for land use planning, zoning,

subdivision regulation, and other traditional activities, reasonably be expected to devote the necessary time and energy to a respectable job of ploughing this new and untried ground? Perhaps a new kind of official commission or board is needed at the local level. If so, how should it be staffed, and by whom? Most city planners, like other city officials, already have more to do than they can handle, and planners by and large are unequipped by education or experience to undertake additional (or anything approaching total) responsibility for the visual quality of the city—as, indeed, in my opinion, are most architects, landscape architects, and other design professionals.

These are not easy questions. But if this newest of city activities and interests opens up another Pandora's Box, so be it. It is nevertheless encouraging to realize that the objective itself has at last become respectable, and that even these halting official steps toward a more beautiful environment are being taken. □

Health directors from many North Carolina counties and districts learned about their role in the implementation of Medicare during a conference at the Institute of Government.

Dr. James F. Donnelly, Director, Personal Health Division of the State Board of Health, Raleigh, discusses Medicare during the special meeting of local health directors.

INSTITUTE SCHOOLS, MEETINGS, CONFERENCES

Assistant Director Kenneth Howard (left) discussed tax proposals submitted to the State Tax Study Commission during the annual conference of the North Carolina Tax Collectors Association (above) at the Institute of Government. The three-day session included seminars on record of tax payment; prevention of embezzlement; design of collection records, letters and advertisements; apportionment of taxes and release of lien on real estate; and certification of tax bills to other units and power to collect. In addition to the annual business session led by Association President Mrs. Ortense Dickson, the conference featured William A. Campbell's lecture on collecting from a closely-held corporation, a collection clinic, and discussion of 1965 legislation affecting tax collectors and collection by Henry W. Lewis. Campbell and Lewis are Institute Assistant Directors.

A Fable on the Use of Sick Leave

by Donald Hayman

Most municipalities in North Carolina provide the same fringe benefits for hourly employees as permanent salaried employees. A few municipalities which have not been providing the same benefits have recently revised their personnel ordinances to provide similar benefits to all employees. Manufacturing industries in the state have not yet equalized benefits but are expected to do so as the result of pressure from minority groups, who allege the different treatment constitutes discrimination, and from unions.

Supervisors of hourly paid employees receiving a fringe benefit such as sick leave for the first time have a responsibility to see that employees understand that sick leave is a privilege, not a right. Supervisors should review with their employees (1) the provisions governing the taking of sick leave, (2) that sick leave is to be taken only when the employee is sick, and (3) that accumulated sick leave can be as valuable to an employee in his time of greatest need as money in the bank.

The following fable appeared in a personnel journal approximately ten years ago. An unsuccessful attempt was made to find the original publication. The fable is reproduced here from memory with the hope that it will be of help to supervisors, employees, and their employing governmental units.

Once upon a time there were two brothers who were sent on a long journey across the desert by their father. As their camels were brought out for the brothers to mount and depart, their father said, "My sons, in the right saddle bag I have placed food for you and gifts for any persons who shall care for you while you are on this long journey. In the left saddle bag, I have placed a gift for each of you. The gift is as precious as gold, and I want you to treasure it as though it were life itself. Promise me that you will not open your left saddle bag until you arrive at your destination or unless adversity shall befall you and your life shall be endangered. The two sons promised their father that they would obey his request and would return as soon as they had completed their mission in the distant land.

The two brothers traveled without incident for three days across the desert. Although the brothers did not discuss what might be in the left saddle bag, the younger brother was curious as to what treasure his father had placed in the left saddle bag. Late at night on the third day of the trip, the younger brother arose from his bed upon the sand and quietly tiptoed to where the saddle bags had been placed for the night. Seeing that his brother was sleeping, he opened the left saddle bag. To his surprise, there was nothing but a loaf of bread and a goat skin of water. The younger brother thought to himself, "Why did father give us these? What is special about this loaf of bread and this water that he should not want us to open them until we reach our destination?" To satisfy his curiosity, he nibbled from the loaf and drank of the water before returning to bed. Still curious as to how the bread and water were different, on the following night, he stole again to the saddle bag and again nibbled on the bread and drank of the water. Every night for a week he ate and drank until the bread and water were nearly gone.

On the tenth day of the trip the south wind started blowing and blew both night and day. The two brothers were cut by the blowing sand and the camels could not walk against the wind. As there was no tree or shelter in sight, the two brothers lay down on the sand with only their camels to protect them from the blowing sand. For three days and nights the wind blew, and the brothers could not travel.

On the third day of the storm the brothers ate the last of the food that their father had placed in the right saddle bag and drank the last drop of water from the goat skins which hung from the camel's neck. For two days they traveled without food or water. On the second day the younger brother despaired. He said, "We will never arrive at our destination. We will never see our father again. We will die here on the desert."

The older brother who was tired and worn said, "Brother, do not give up hope. Now is the time for us to open our saddle bags to see the gift that our father placed there for us. The brothers opened the saddle bags. In the older brother's bag was a loaf of bread and a goat skin of water, but in the younger brother's bag were only crumbs and a pint of water. Only through the charity and sacrifice of the older brother who shared his water and bread with his younger brother were the travelers able to reach their destination.

Is not your sick leave like the bread and water provided by the father to the two sons? Is not sick leave a gift as precious as gold to be treasured as though it were life itself? When you are ill, normal expenses continue and medical expenses mount. Sick leave which has been saved to be taken when it is truly needed, gives employees a greater degree of economic security and may save you from asking for charity from relatives and friends.

As you earn sick leave, will you be like the older brother and save your sick leave in order to use it when you are really sick? Or will you be like the younger brother who kept nibbling away at the treasure and was dependent upon the charity of his relatives in his hour of need? □

Above, Professor Donald Matthews of the University of North Carolina Political Science Department conducts a business session for the North Carolina Center for Education and Politics. Dr. Matthews is NCCEP director. Reapportionment was among the major topics at the Institute session.

At left, Wilbur Thompson, Professor of Economics at Wayne State, and one of the faculty members of the Urban Policy Seminar; managers Mackintosh (Burlington) and Ray (Fayetteville) and Commissioner Trentman of Wake County.

"The City of the Future" was the subject of a Regional Urban Policy Seminar held at the Institute April 20-23 to examine the nature of the contemporary urban environment and the limitations and potentialities of public policy in meeting public needs within that setting.

The Seminar was conducted by the Brookings Institution under the joint sponsorship of the International City Managers' Association, the North Carolina City and County Managers' Association, and the Institute of Government. A major portion of the expenses of the participants was met from a Ford Foundation grant to the Institute of Government.

Some 30 state and local officials attended the sessions, including city and county managers, planners, governing board members, and state administrators. Members of the faculty and some of the participants are shown on these pages.

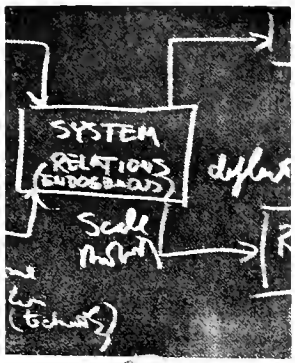
INSTITUTE SCHOOLS, MEETINGS, CONFERENCES

Between sessions the "Guilford delegation" continues the discussion with Don Hayman of the Institute (left). Seated is George Aull, Greensboro Manager, surrounded by Robert Barkley of the Urban Redevelopment Commission; High Point Manager, Harold Cheek; and Guilford Manager, Carl Johnson.

Professor Edward Higbee of the University of Rhode Island discusses the financial inter-relationships of all governments.

Discussing Research Triangle developments are Hal Trentman, Chairman of the Wake County Board of Commissioners; Bob Stipe of the Institute; Pearson Stewart, Director of the Research Triangle Regional Planning Commission; and William Carper, Raleigh Manager.

Assistant Director Allan Ashman, left, checks out the story of the National Council on Crime and Delinquency Inventory Meeting with a UPI correspondent. Pinpointing problem areas in the field of juvenile and adult corrections in North Carolina was the key topic at the Institute session. Among the problems highlighted were securing better and more highly trainned personnel, obtaining more juvenile detention facilities, and implementing cooperation among agencies concerned with corrections.



Above, William E. Besuden, Associate Director of the ICMA, was coordinator for the Urban Policy Seminar.
Left, John Osman, of the Brookings Institution and Director of the Seminar offers an analysis of urban action.

Scott Greer, Director of Metropolitan Studies at Northwestern University and a member of the Seminar faculty, talks with Coordinator Besuden (right) and professors Thompson and Higbee (left).

Credits: Cover photo and pictures on page 20, Hugh Morton. All other photos, Charles Nakamura. Design and illustrations, Lynn Igoe.

Recent Institute of Government Publications

Available Now:

Robert G. Byrd: *County Budgeting*

Robert E. Phay: *Federal Assistance for Local Governments*

Prepared for the State Planning Task Force.
Copies may be obtained from the Task Force,
127 Halifax Street, Raleigh, North Carolina,
or from the Institute of Government.

Warren Jake Wicker: *Arrangements for Water and Sewerage Services*

Coming Soon:

Ben F. Loeb, Jr.: *North Carolina Fire Laws*

Robert E. Phay: *Eminent Domain Powers for Cities and Counties*

JUNE AT THE INSTITUTE OF GOVERNMENT

. . . a preview of coming schools, meetings, conferences

	June
Probation Officers	1-2
Highway Patrol Basic School	1-30
North Carolina Section, A. I. P.	3
Police Community Relations Institute	7-9
Local Government Reporting Seminar	10-11
Driver Education	13-18
Wildlife Recruit School	20-30
Probation Supervisors	21-23
Local Government Auditing for Certified Public Accountants	24-25